

GLOBAL LEGAL EDUCATION, THE GLOBALIZING LEGAL PROFESSION, AND THE FUTURE OF INTERNATIONAL LAW

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INTRODUCTION

Writing for this *Festschrift* in honor of Professor Robert E. Lutz is a privilege. Looking back at his remarkable career,¹ it would be hard to overstate Bob’s importance to Southwestern Law School and his impact on generations of students. For more than four decades, his scholarship as well as his leadership in a range of international law organizations² placed Bob

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1. Others in this issue underscore more of Bob’s many achievements and accolades. I note only that it’s not surprising the ABA Section of International Law recognized him with its 2016 Lifetime Achievement Award, and in 2014 he received the Warren Christopher “Lawyer of the Year” Award from the California Bar. This year, the Daily Journal interviewed Bob for its podcast hosted by the contributing editor Howard B. Miller. *See A Model Life in International Law: Celebrating Professor Robert Lutz*, DAILY J. (June 25, 2021), <https://www.dailyjournal.com/articles/363272-a-model-life-in-international-law-celebrating-professor-robert-lutz>.

2. As a few examples, Bob has served as the Chair of ABA International Law Section, Chair of the ABA Standing Committee on International Trade in Legal Services, Chair of Section of International Law of the Association of American Law Schools, and Chair of the Los Angeles

at the forefront of analyzing and shaping some of the biggest changes occurring in the public and private international law. While he worked with countless law students, he was also a mentor for and caring supporter of his colleagues.³ When I began my career at Southwestern teaching international environmental law, I not only relied on the leading casebook, *International Environmental Law and Policy*, which Bob co-authored,⁴ but I often sought him out for advice, guidance, and friendship.

Bob's remarkable career and intellectual interests have tracked many of the broader changes occurring within the field of international law. Bob is a practitioner and observer in several domains. If his earlier work focused on international and transnational environmental law regimes,⁵ his more recent work assessed the substantial transformations of the legal profession wrought by globalization, technology, and the geopolitical shifts following the end of the Cold War.⁶ The most prominent transformations include the dramatic globalization of legal education in the U.S. and beyond; the changing face of the profession as lawyers have tackled an increasingly wide range of transnational challenges; and the proliferation of global

County Bar Association's International Law Committee. He co-founded the California Bar Association's International Law Section and served on Executive Committee of the California Lawyers Association's International Law Section. He was also a US member of the NAFTA Advisory Committee on Private Commercial Dispute Resolution, a member of the Advisory Committee on International Law to the U.S. State Department's Legal Adviser, and a member of the ABA's Center for Professional Responsibility's Committees on Professional Regulation and Professionalism, and the Commission on Ethics 20/20. As a Life-Member of the American Law Institute, he chaired a Blue-Ribbon Working Group on the Restatement of Foreign Relations Law of the United States (Fourth) and has been active with the American Bar Foundation Fellows' Research Advisory Council.

See Robert Lutz to Receive Lifetime Achievement Award, AM. L. INST. (July 25, 2016), <https://www.ali.org/news/articles/robert-lutz-receive-lifetime-achievement-award/>; Robert Lutz, *Member Spotlight: Robert E. Lutz*, AM. BAR ASS'N (Dec. 16, 2021), https://www.americanbar.org/groups/senior_lawyers/publications/voice_of_experience/2020/voice-of-experience--december-2020/member-spotlight--robert-e--lutz/.

3. Whether his annual Oktoberfest celebrations for Southwestern Law School faculty and staff were a small part of his broader globalization efforts, or simply a love of good company and craft beer, is contested.

4. DANIEL BARSTOW MAGRAW ET AL., *INTERNATIONAL ENVIRONMENTAL LAW AND POLICY* (Edith Brown Weiss et al. eds., 1st ed. 1998).

5. *See, e.g.*, Robert E. Lutz, *The Laws of Environmental Management: A Comparative Study*, 24 AM. J. COMP. L. 447 (1976).

6. *See, e.g.*, Robert E. Lutz, *The Regulation of the Transnational Legal Profession in the United States*, 50 INT'L L. 445 (2017) (reprinted from a Festschrift symposium); Robert E. Lutz, *Comparative Observations About Transnational Legal Education and Legal Scholarship*, 46 INT'L L. 625 (2012); Robert E. Lutz, *Reforming Approaches to Educating Transnational Lawyers: Observations from America*, 61 J. LEGAL EDUC. 449 (2012). *See also* THE ABA SECTION OF INTERNATIONAL LAW, *THE WORLD'S INTERNATIONAL LAWYERS SINCE 1878* (Robert E. Lutz & Aaron Schildhaus, eds., 2008).

governance approaches that compete with state-based international law. Indeed, much of Bob's most enduring work reflects his long-standing dedication to initiatives focused on the globalization of legal practice and academia.

This modest contribution to Bob's richly deserved *Festschrift* sketches out some of these transformations. It begins by describing how legal education has attempted to adapt to the demands of a globalizing legal profession, even when counter forces have pushed towards isolation. It ends by describing those regimes that, in some respects, compete with and seek to displace public international law and reimagine global governance. This short piece does not pretend to do justice to the depth of Bob's lifetime of work or to the many important contributions he has made over that half century. Rather, this piece provides a glimpse and the briefest of summaries by pulling together the work and observations of a range of colleagues, who I have been fortunate to work with and learn from, and who have been leaders in the field.

GLOBALIZING LEGAL EDUCATION

One area in which Bob has been intimately involved is the globalization of legal education. In the early 1980s, Bob founded and taught at the first ABA-accredited law school program in the People's Republic of China, at Zhongshan University in Guangzhou. Bob's long-standing work with Southwestern Law School's summer law program at the Summer Law Institute in Guanajuato, as well as his work with this journal are other examples. Bob led many of Southwestern's international initiatives and, over his career, participated in legal exchanges with the bars and law societies of China, Cuba, Scotland, Ireland, India, Guatemala, Costa Rica, Brazil, South Africa, Lebanon, Syria, and Iran, among others. He was recently granted a Fulbright scholarship to engage in research and teaching in Eastern Europe at Moldova State University's Law Faculty. Southwestern now offers more than sixty courses and seminars on international and comparative law. For many years, students could elect to take Public International Law as a first-year elective course. Bob's work helped pave the way and set the foundation for unique programs such as the Siderman Human Rights Fellowship and Southwestern's partnership with the Republic of Armenia.

The initiatives Bob helped launch at Southwestern mirror broader changes that have occurred throughout U.S. legal education overall.⁷ Over the last few decades, courses on international, comparative,⁸ and transnational law⁹ have proliferated, both in the upper-division and the first-year curriculum.¹⁰ For example, Harvard Law School, Michigan Law School, and Georgetown Law Center offered foundation courses focused on transnational legal issues.¹¹ More recently, the more innovative programs have focused not just on the substance of international law, but on studying international legal systems, lawyers, and the global legal profession. For example, at Indiana University Bloomington's Maurer School of Law, students are required to take a three-credit Legal Profession course, one section of which is focused on global lawyering.¹² At the University of California's Irvine School of Law, students are able to take a first-year course in international legal analysis, which for several years was required.¹³

7. For an overview, see THE INTERNATIONALIZATION OF LAW AND LEGAL EDUCATION (Mortimer Sellers & Jan Klabbers eds., 2008). For Bob's discussion of the most significant ways that U.S. law schools help prepare global lawyers, see Lutz, *supra* note 6, at 453-54.

8. See Anthea Roberts et al., *Comparative International Law: Framing the Field*, 109 AM. J. INT'L L. 467 (2015).

9. Transnational law is now taught in law schools as a separate course from international law. Carrie Menkel-Meadow, *Why and How to Study "Transnational" Law*, 1 U.C. IRVINE L. REV. 97, 100 (2011). See also Eve Darian-Smith, *Transnational Legal Education*, in THE OXFORD HANDBOOK OF TRANSNATIONAL LAW 1153 (Peer Zumbansen ed., 2021) ("This chapter examines the increasing demand for law schools in the United States and around the world to include courses that engage with the rapidly expanding field of transnational law and global legal processes."). On the broader trend, see Helen Hershkoff, *Integrating Transnational Legal Perspectives into the First Year Civil Procedure Curriculum*, 56 J. LEGAL EDUC. 479, 479 (2006) (noting "the move to globalize the curriculum at other law schools has gathered steam, fueled by conferences, symposia, and workshops . . . with current efforts aimed at ensuring 'that the vast majority, if not all, of law school graduates have exposure to issues of international, transnational, and comparative law.'")

10. ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, A SURVEY OF LAW SCHOOL CURRICULA: 2002-2010 14-16 (Catherine L. Carpenter, ed. 2012) (upper division course titles have increased since 2002 with "noted additions in International Law . . ." and that international law had become one of the more popular areas for specialization and certificates); see also Larry Catá Backer, *Internationalizing the American Law School Curriculum (In Light of the Carnegie Foundation's Report)*, 2 IUS GENTIUM 49, 54 (2008).

11. Farid Ali, *Globalizing the U.S. Law School Curriculum: How Should Legal Educators Respond?*, 41 INT'L J. LEGAL INFO. 249, 266 (2013).

12. *A Different Approach to your First Year*, IND. UNIV. MAURER SCH. LAW, <https://law.indiana.edu/academics/jd-degrees/innovative/first-year.html> (last visited Mar. 24, 2022).

13. *International and Comparative Law*, U. C. IRVINE SCH. LAW, <https://www.law.uci.edu/academics/curriculum/international-law.html> (last visited Mar. 24, 2022).

Furthermore, the number of co-curricular activities and organizations with a global outlook have increased as the globalizing curricular trends in law schools have become more commonplace. Most schools now host international law student associations, along with other international activities. It has also become routine for law schools to host journals with a global or international focus,¹⁴ or with specialized sub-fields from different countries.¹⁵ In this way, Southwestern's Journal of International Law is similar to the range of international and transnational journals that have proliferated throughout the United States.¹⁶ Indicative of the tendency toward specialization, this journal, for which Bob long-served as a faculty advisor, was known as Southwestern's Journal of Law and Trade in the Americas from its founding in 1994 through 2008.

Newer, and less common, are experiential learning opportunities that have a global focus and programs designed to improve cultural competencies.¹⁷ For example, at Indiana University Bloomington, the Maurer School of Law offers an overseas global internship program. Each year, the school fully funds twenty to twenty-five law students, who work in more than twelve countries during their first or second-year summer.¹⁸ Placements range from positions in intellectual property and business law in Argentina and Brazil, human rights in Mexico and Poland, to business and technology law in China, India, Taiwan, Thailand, and Vietnam, among others. Led by Professor Jayanth Krishnan, the Director of the Stewart Center on the Global Legal Profession, and Professor Christiana Ochoa, the school's Interim Dean and Academic Director of Indiana University's

14. See generally Ignacio de la Rasilla, *A Very Short History of International Law Journals (1869–2018)*, 29 EUR. J. INT'L L. 137 (2018).

15. Steven R. Ratner and Anne-Marie Slaughter, *Appraising the Methods of International Law: A Prospectus for Readers*, 93 AM. J. INT'L L. 291 (1999) (“We have moved, it seems, from the establishment of new international law journals by law schools around the world to a proliferation of specialized international law journals and very specialized international lawyers”).

16. For a discussion of some of these trends, see Carole Silver, *Internationalizing U.S. Legal Education: A Report on the Education of Transactional Lawyers*, 14 CARDOZO J. INT'L & COMP. L. 143 (2006); Simon Chesterman, *The Evolution of Legal Education: Internationalization, Transnationalization, Globalization*, 10 GERMAN L.J. 877, 881-83 (2009) (defining the first phase of transformation of legal education as internationalization, the second phase of transnationalization as a “shift” toward offering students experience abroad, and the third phase as globalization, in which “individual lawyers need to be comfortable in multiple jurisdictions, often simultaneously.”).

17. Carole Silver, *Getting Real About Globalization and Legal Education: Potential and Perspectives for the U.S.*, 24 STAN. L. & POL'Y REV. 457, 462 (2013) (describing the need for global experiential learning at U.S. law schools and the need for intercultural competency).

18. Stewart Fellows Global Internship Program, IND. UNIV. MAURER SCH. LAW, <https://law.indiana.edu/academics/global-experiences/stewart-fellows/index.html> (last visited Mar. 24, 2022).

Global Gateway in Mexico City, this program is one of the few in the U.S. that provides fully funded summer jobs to students.¹⁹

Summer abroad programs and semester abroad programs,²⁰ while still prevalent, seem to be less active than they had been prior to the Great Recession. For many years, Southwestern Law School hosted summer programs in Argentina, Canada, England, and Mexico. Bob taught or was involved in many of them. In Argentina, students who were fluent in Spanish could attend externships with the Argentina Supreme Court. Students in the Vancouver program could extern with the International Centre for Criminal Law Reform and Criminal Justice Policy, a UN affiliate, while some students would work with local environmental nonprofits. Even if there are fewer summer abroad opportunities for students now, semester abroad positions and joint degrees with foreign institutions are common and U.S. faculty now travel and visit foreign institutions often.²¹

Bob also promoted the growth of international LL.M. programs that allow a large number of international lawyers to work side-by-side with the JD students.²² At one time, LL.M. programs were offered only by a relatively small number of law schools with long standing programs.²³ At Indiana University's Maurer School of Law, the LL.M. program for foreign-licensed lawyers started over a century ago, with its first international students graduating in the early 1900s.²⁴ From 2012 to 2016,

19. See LINDA K. FARISS & KEITH BUCKLEY, INDIANA UNIVERSITY MAURER SCHOOL OF LAW: THE FIRST 175 YEARS 86 (2019).

20. For a current list, see *Foreign Programs*, AM. BAR ASS'N, https://www.americanbar.org/groups/legal_education/resources/foreign_study/foreign_programs/ (last visited Mar. 24, 2022); see also Adelaide Ferguson, *Mapping Study Abroad in U.S. Law Schools: The Current Landscape and New Horizons*, NAFSA: ASS'N INT'L EDUC. 1 (2010).

21. Carrie Menkel-Meadow, 'Have Law Books, Computer, Simulations – Will Travel', *The Transnationalization of (Some of) the Law Professoriate*, in THE GLOBALIZATION OF LEGAL EDUCATION: A CRITICAL STUDY (Bryant Garth et al. eds. 2017).

22. See, e.g., Carole Silver & Swethaa S. Ballakrishnen, *Sticky Floors, Springboards, Stairways & Slow Escalators: Mobility Pathways and Preferences of International Students in U.S. Law Schools*, 3 U.C. IRVINE J. INT'L, TRANSN'L, & COMP. L. 39, 49 (2018); Carole Silver, *States Side Story: Career Paths of International LL.M. Students, or "I Like to Be in America,"* 80 FORDHAM L. REV. 2383, 2384 (2012).

23. Matthew S. Parker, *The Origin of LL.M Programs: A Case Study of the University of Pennsylvania Law School*, 39 U. PA. J. INT'L L. 825, 855 (2018) (a report to the ABA in 1906 noted that a 'master's degree in law' was offered in nineteen schools, all of them in the form of an LL.M.) (citing REPORT OF THE COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR (1906), reprinted in 1 THE HISTORY OF LEGAL EDUCATION IN THE UNITED STATES: COMMENTARIES AND PRIMARY SOURCES 1177-82 (Steve Sheppard ed., 1999)).

24. FARISS & BUCKLEY, *supra* note 19, at 127, 131 (describing the law school's first students from the Philippines, who arrived in 1904, and how the LL.M. degree for foreign lawyers was first offered in 1918).

other schools launched new foreign LL.M. programs in response to the pressures on legal education following the Great Recession.²⁵ The number of international JD students has grown recently.²⁶ In sum, the cross-border flows of students is significant.²⁷

Law schools have also expanded their global research activities. A small number of law schools have even created specialized centers to focus on that changing nature of the legal profession. University of California, Irvine's Center on Globalization, Law and Society and Indiana University Bloomington's Center on the Global Legal Profession are particularly good examples, while a few other schools have similarly invested in studying globalization²⁸ or transnational law.²⁹ Some schools have even devoted entire symposia to the globalization of legal education.³⁰

Of course, more could be done, as not all, and perhaps not even the majority, of U.S. law schools have embraced global legal education.³¹ As

25. Nora V. Demleitner, *Stratification, Expansion, and Retrenchment: International Legal Education in U.S. Law Schools*, 43 INT'L L. NEWS 1, 6 (2014) ("U.S. law schools experience[d] increasing fiscal pressure due to the downturn in the number of applicants to their JD programs, ever more of them have opened or increased the size of LL.M. program targeting foreign attorneys.").

26. Carole Silver & Swethaa Ballakrishnen, *Language, Culture, and the Culture of Language: International JD Students in U.S. Law Schools*, POWER, LEGAL EDUC., & L. SCH. CULTURES (2020) (tracking data on the proportion of JDs who are international students, including dates from interviews with approximately fifty international students); see also Carole Silver & Swethaa Ballakrishnen, *A New Minority? International JD Students in U.S. Law Schools*, 44 LAW & SOC. INQUIRY 647 (2019).

27. See Anthea Roberts, *Cross-Border Student Flows and the Construction of International Law as a Transnational Legal Field*, 3 U.C. IRVINE J. INT'L TRANSNATION'L & COMP. L. 1, 4-12 (2018).

28. See, e.g., *Stewart Center on the Global Legal Profession*, IND. UNIV. MAURER SCH. LAW; *Center on Globalization, Law, and Society* U. C. IRVINE SCH. LAW; *Center on the Legal Profession* HARV. L. SCH.

29. See, e.g., *Center for Transnational Litigation, Arbitration, and Commercial Law*, N.Y.U.; *Center for Transnational Legal Studies*, GEORGETOWN UNIV. L. CTR; *Center for Transnational Law and Business*, U.S.C. GOULD SCH. LAW; *The Dickinson Poon Transnational Law Institute*, KING'S C. LONDON.

30. *The Globalization of Legal Education: A Critical Study*, U.C. IRVINE SCH. LAW, <https://www.law.uci.edu/centers/glas/activities/globalization-legal-education-conference/> (last visited Mar. 24, 2022). For one of the earliest examples, see William D. Henderson, *The Globalization of the Legal Profession*, 14 IND. J. GLOB. LEG. S. 1, 1-2 (2007).

31. Rosa Kim, *Globalizing the Law Curriculum for Twenty-First-Century Lawyering*, 67 J. LEGAL EDUC. 905, 906 (2018) ("[T]he theory that law students need training to become solvers of global problems has not materialized into practice for the great majority of law schools"); Therese Kaiser-Jarvis, *Preparing Student for Global Practice: Developing Competencies and Providing Guidance*, 67 J. LEGAL EDUC. 949 (2018) ("U.S. law schools vary greatly in the attention they give to developing global competencies in their students"); John B. Attanasio, *Partnerships, Joint Ventures and Other Forms for Building Global Law Schools*, 18 DICK. J. INT'L L. 483, 484-85

one commentator stated, “[i]n sum, it is probably accurate to say that internationalization is not in the mainstream of the leading discussions of American legal education, but it is not entirely absent. That said, it is not so easy to characterize its presence.”³²

These changes and pressures to globalize are not unique to the United States. Law schools in India,³³ China,³⁴ Indonesia,³⁵ Brazil,³⁶ and elsewhere³⁷ have begun to focus on preparing students for global legal markets,³⁸ and using global connections as a way to compete within domestic markets. The Jindal Global Law School in Sonipat, India is perhaps the most well-known and successful example.³⁹ A growing literature also explores the reasons, origins, and causes of the globalization of law and legal education.⁴⁰

(2000) (stating that globalization of legal education has lagged behind schools in other disciplines).

32. Frank K. Upham, *The Internationalization of Legal Education: National Report for the United States of America*, 62 AM. J. COMP. L. 97, 104 (2014).

33. See generally Yves Dezalay & Bryant G. Garth, *Battles Around Legal Education Reform: From Entrenched Local Legal Oligarchies to Oligopolistic Universals, India as a Case Study*, 3 U.C. IRVINE J. INT’L, TRANSNAT’L, & COMP. L. 143, 144-45 (2018); C. Raj Kumar, *Legal Education, Globalization and Institutional Excellence: Challenges for the Rule of Law and Access to Justice in India*, 20 IND. J. GLOB. LEGAL STUDIES 221 (2013); Jayanth K. Krishnan, *Professor Kingsfield Goes to Delhi: American Academics, the Ford Foundation, and the Development of Legal Education in India*, 4 AM. J. LEGAL HIST. 447, 455 (2004).

34. Cecily E. Baskir, *Legal Education in China: Globalizing with Chinese Characteristics*, 2 ASIAN J. LEGAL EDUC. 143 (2015); cf. Matthew S. Erie, *Legal Education Reform in China Through U.S. Inspired Transplants*, 59 J. LEGAL EDUC. 60 (2009).

35. Adriaan Bedner & Jacqueline Vel, *Legal Education in Indonesia*, 1 INDON. J. SOCIO-LEGAL STUD. 22 (2021).

36. Oscar Vilhena Vieira & Jose Garcez Ghirardi, *The Unstoppable Force, the Immovable Object: Challenges for Structuring a Cosmopolitan Legal Education in Brazil*, 3 U.C. IRVINE J. INT’L TRANSNAT’L & COMP. L. 119 (2018).

37. Trevor C. W. Farrow, *Globalizing Approaches to Legal Education and Training: Canada to Japan*, 38 HOSEI RIRON J. LAW & POL. 144, 148 (2005).

38. For discussions of global law schools and the internationalization of legal education generally, see Alberto Bernabe-Riefkohl, *Tomorrow’s Law Schools: Globalization and Legal Education*, 32 SAN DIEGO L. REV. 137, 147 (1995); THE INTERNATIONALISATION OF LEGAL EDUCATION (Christophe Jarmin & William van Caenegem eds., 2016).

39. See C. Raj Kumar, *Experiments in Legal Education in India: Jindal Global Law School and Private Nonprofit Legal Education*, in THE INDIAN LEGAL PROFESSION IN THE AGE OF GLOBALIZATION: THE RISE OF THE CORPORATE LEGAL SECTOR AND ITS IMPACT ON LAWYERS AND SOCIETY 606 (D. Wilkins et al. eds. 2017).

40. Dezalay & Garth, *supra* note 33, at 7; see also YVES DEZALAY & BRYANT G. GARTH, LAW AS REPRODUCTION AND REVOLUTION: AN INTERCONNECTED HISTORY 143-44 (2021); YVES DEZALAY & BRYANT G. GARTH, THE INTERNATIONALIZATION OF PALACE WARS: LAWYERS, ECONOMISTS, AND THE CONTEST TO TRANSFORM LATIN AMERICAN STATES 123 (2002). For a discussion in the Indian context, Krishnan, *supra* note 33, at 447.

In the United States, the globalizing of legal education is not limited to law schools; it also occurs at the undergraduate level. At Indiana University Bloomington, the Hamilton Lugar School of Global and International Studies (in collaboration with the Maurer School of Law) offers a BA in international law and institutions, one of the first of its kind.⁴¹ The University of Arizona has also received some publicity for its BA program in China.⁴² Of course, undergraduate courses and majors in international law have been around in other countries for a long time.⁴³ Outside the United States, where the study of law is not primarily part of a graduate program, such programs have been common.⁴⁴

GLOBALIZING LAWYERS AND THE CHANGING GLOBAL LEGAL PROFESSION

It's not just legal education in the United States that has globalized. Legal education has largely reflected broader changes occurring in legal practice. Perhaps these changes are being driven by law schools in a sense that "all lawyers of the 21st century should be prepared to address international, trans-national or cross-border legal issues."⁴⁵ While globalizing trends may not be the only factor attracting students to global law schools,⁴⁶ and despite some recent retreats towards isolationism,⁴⁷

41. *Law and Institutions Degree Program on Cutting Edge of International Issues*, HAMILTON LUGAR SCH. NEWS (Apr. 20, 2021), <https://blogs.iu.edu/hamiltonlugar/2021/04/20/law-and-institutions-degree-program-on-cutting-edge-of-international-issues/>.

42. *UA Launches First Dual Degree Law Program in China*, ARIZONA UNIV. JAMES E. ROGER C. LAW (Jan. 12, 2016), <https://law.arizona.edu/news/2016/01/ua-launches-first-dual-degree-law-program-china>.

43. At Indiana University Bloomington, a BS in Law and Public Policy offered by the O'Neill School of Public and Environmental Affairs in collaboration with the Maurer School of Law has been offered since 2013. *Learn How the Law Works and Use it to Solve Problems and Shape Policy*, IND. UNIV. O'NEILL SCH. PUB. & ENVTL. AFFAIRS, <https://oneill.indiana.edu/undergraduate/degrees-majors/law-public-policy.html> (last visited Mar. 24, 2022).

44. *See, e.g., 12 Bachelor Programs in International Law*, KEYSTONE BACHELOR STUD., <https://www.bachelorstudies.com/Bachelor/International-Law/> (last visited Oct. 16, 2022).

45. Kaiser-Jarvis, *supra* note 31, at 950.

46. Kevin E. Davis & Xinyi Zhang, *Who Wants the Global Law School?*, 3 U.C. IRVINE J. INT'L TRANSN'L & COMP. L. 71, 71-73 (2018).

47. *Id.* at 74 (noting some trend away from globalization since the Great Recession); *see also* Kim, *supra* note 31, at 905 ("In the current post-Trump political climate, the concept of globalization has taken on a decidedly negative connotation. Nationalist and xenophobic movements in the United States and Europe have resurged as a reaction to what some view as the negative economic, social, and political effects of an increasingly interconnected world. Yet, just as the momentum in technological advancement in the digital age cannot be slowed, avoiding the reality of an increasingly globalized world by insisting on looking inward is futile.").

generally the trend to greater globalization of legal services has been well understood.⁴⁸

Bob has been a keen observer of these changes. In a series of articles with several co-authors, he detailed the changes occurring within the U.S. legal profession, and the rise of the transnational lawyer, as a result of globalization.⁴⁹ In 2012, Bob highlighted the “rapid integration and globalization of national economies” and how “globalization is also a primary force behind curricular reforms that seek to prepare students to function as lawyers in a transnational legal world.”⁵⁰ Much of Bob’s most recent work and writings have addressed the ability of a lawyer to practice or consult in foreign jurisdictions.⁵¹

Global law firms with global practices are now common.⁵² U.S. law firms have created new practice groups devoted to transnational disputes,⁵³ the American Bar Association has attempted to support transnational practice,⁵⁴ and a range of literature explores global legal service networks.⁵⁵ Cases involving foreign elements and noncitizen defendants have increased

48. One of the early and leading symposia on the topic was Northwestern Law School’s Symposium on the Globalization of the Legal Profession in 2008. See Carole Silver et al., *Globalization and the Business of Law: Lessons for Legal Education*, 28 NW. J. INT’L L. & BUS. 399, 412 (2008) (introducing the symposium).

49. See, e.g., Robert E. Lutz et al., *Transnational Legal Practice Developments*, 39 INT’L L. 619 (2005); Laurel S. Terry et al., *Transnational Legal Practice*, 43 INT’L L. 563, 563-64 (2009).

50. Lutz, *supra* note 6, at 449, 452.

51. Robert E. Lutz, *An Essay Concerning the Changing International Legal Profession*, 18 SW. J. INT’L L. 215 (2011); Robert E. Lutz et al., *Cross-Border Legal Services*, 37 INT’L LAW. 987, 987, 989 (2003).

52. See Jayanth K. Krishnan, *Globetrotting Law Firms*, 23 GEO. J. LEGAL ETHICS 57, 57-58 (2010); Jayanth K. Krishnan, *Outsourcing and the Globalizing Legal Profession*, 48 WM. & MARY L. REV. 2189, 2201 (2007). See also D. Daniel Sokol, *Globalization of Law Firms: A Survey of the Literature and a Research Agenda for Further Study*, 14 IND. J. GLOBAL LEGAL STUD. 5, 5-6 (2007); Carole Silver, *Local Matters: Internationalizing Strategies for U.S. Law Firms*, 14 IND. J. GLOB. LEGAL STUD. 67, 69 (2007).

53. See Donald Earl Childress III, *Rethinking Legal Globalization: The Case of Transnational Personal Jurisdiction*, 54 WM. & MARY L. REV. 1489, 1492 (2013); Paul Dubinsky, *Is Transnational Litigation a Distinct Field? The Persistence of Exceptionalism in American Procedural Law*, 44 STAN. J. INT’L L. 301, 303 (2008) (describing creation of specialized practices); see also Press Release, Gibson, Dunn & Crutcher LLP, *Gibson Dunn Launches Transnational Litigation and Foreign Judgments Practice Group* (Dec. 15, 2010), <https://www.prnewswire.com/news-releases/gibson-dunn-launches-transnational-litigation-and-foreign-judgments-practice-group-111926789.html>.

54. See Laurel S. Terry & Carole Silver, *Transnational Legal Practice*, 49 ABA/SIL YIR (n.s.) 413 (2015).

55. See, e.g., Laurel S. Terry, *Global Networks and the Legal Profession*, 53 AKRON L. REV. 137 (2019).

in the United States as well.⁵⁶ It's common for U.S. lawyers to need to know something about international or transnational law and practice,⁵⁷ even if they are not practicing with global firms.⁵⁸ Over twenty years ago, scholars observed that "international law practice has grown from an obscure specialty to a robust field of professional endeavors for lawyers in many of the world's developed economies."⁵⁹ Others have reached similar conclusions.⁶⁰

The extent of globalization is significant. As one recent article noted, "in 2018, the United States exported approximately \$10.3 billion in legal services and imported approximately \$3.4 billion in legal services"⁶¹ The other statistics are equally compelling. In 2015, law firms located in forty-seven states had at least one foreign office, including both small and large firms.⁶² As with global legal education, the phenomenon of globalizing legal practice is by no means limited to the United States, which may be a late comer in many respects.⁶³

56. The introduction to the Fourth Edition of Gary Born and Bo Rutledge's well-known casebook sums up the changes well. GARY BORN & PETER B. RUTLEDGE, *INTERNATIONAL CIVIL LITIGATION IN UNITED STATES COURTS* ix (5th ed. 2011) ("When the first edition of this book was completed in 1988, the field of international civil litigation did not exist in the United States. . . . Practitioners, as well as academics, now regard international civil litigation as a vital, and profoundly challenging, area of the law.").

57. RONIT DINOVIETZ ET AL., *AFTER THE JD II: SECOND RESULTS FROM A NATIONAL STUDY OF LEGAL CAREERS* 35 (2009) (indicating that nearly half of U.S. lawyers are called upon to solve transnational legal problems for their clients, with almost two-thirds of lawyers at large law firms and serving as inside counsel report an international component to their practices); see also DONALD E. CHILDRESS III ET AL., *TRANSNATIONAL LAW AND PRACTICE* 4 (Rachel E. Barkow et al. eds., 2nd ed. 2015) (describing the increase in transnational practice).

58. Laurel S. Terry, *The Legal World is Flat: Globalization and its Effect on Lawyers Practicing in Non-Global Law Firms*, 28 NW. J. INT'L L. & BUS. 527, 527-28 (2008).

59. Peter L. Murray & Jens Drolshammer, *The Education and Training of a New International Lawyer*, in *THE INTERNATIONALIZATION OF PRACTICE OF LAW* 289, 290 (Jens Drolshammer & Michael Pfeifer eds., 2001).

60. Frank Sullivan, Jr., *International LL.M. Students: A Great Resource for U.S. Law Schools*, 22 IND. INT'L & COMP. L. REV. 219, 234-35 (2012) (book review) ("There is no courtroom in this country into which international considerations do not enter."); Adelaide Ferguson, *Mapping Study Abroad in U.S. Law Schools: The Current Landscape and New Horizons*, NAFSA: ASS'N INT'L EDUC. 4-6 (2010) (From a 2009 study of "10,740 active members of the Philadelphia Bar Association, 67.5 percent of the 1,050 lawyers responding reported working on a legal matter within the past year that required them to have some knowledge of foreign and/or international law."); see generally Carole Silver, *The Case of the Foreign Lawyer: Internationalizing the U.S. Legal Profession*, 25 FORDHAM INT'L L.J. 1039 (2001).

61. Terry, *supra* note 55, at 143; see also Laurel S. Terry, *Transnational Legal Practice (International)*, 47 INT'L LAW 485, 490 (2013).

62. Terry, *supra* note 55, at 144.

63. Mihaela Papa & David B. Wilkins, *Globalization, Lawyers and India: Toward a Theoretical Synthesis of Globalization Studies and the Sociology of the Legal Profession*, 18 INT'L J. LEGAL PROF. 175 (2011) ("It is by now common knowledge that globalization is

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Finally, a third transformation of international law and global governance tracks well with Bob's own career and scholarly contributions. Bob began his career writing about international law and institutions. Some of his most influential work, focused on environmental law regimes, and detailed the growth of international agreements. His more recent work explored the rise of global networks, non-state actors, and pluralistic regimes that now often compete with, rather than complement, international law.

For decades, the nation-state and its territorial borders were the core focus of international law. Since the end of the Second World War, “the notion of equal sovereignty of states, internal competence for domestic jurisdiction, and territorial preservation of existing boundaries” were the three central principles that formed the foundation of the international legal system.⁶⁴ These legal principles undergirded a state-focused international system designed to reduce conflict, maintain peace, and constrain would-be empire-builders.⁶⁵ As such, the international legal system privileged multilateral collaborative efforts, over unilateral action.⁶⁶ Indeed, principles of cooperation, consultation, and negotiation⁶⁷—combined with principles

transforming virtually every sector of the world's economy, and that this transformation has important implications for the rapidly globalizing market for legal services. At the same time, as economic power shifts, India, China and other emerging economies are becoming central players in this market.”); Sida Liu, *Globalization as Boundary-Blurring: International and Local Law Firms in China's Corporate Law Market*, 42 L. & SOC'Y. REV. 771, 772 (2008). See Ethan Michelson, *Women in the Legal Profession, 1970-2010: A Study of the Global Supply of Lawyers*, 20 IND. J. GLOBAL LEGAL STUD. 1071, 1086 (2013), for an analysis of gender differences, studying data from eighty-six countries.

64. Stuart Elden, *Contingent Sovereignty, Territorial Integrity and the Sanctity of Borders*, 26 SAIS REV. INT'L AFF. 11 (2006).

65. “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state.” U.N. Charter art. 2, ¶ 4. Hersch Lauterpacht described international law's mission as leading “to enhancing the stability of international peace, to the protection of the rights of man, and to reducing the evils and abuse of national power.” Steve R. Ratner, *International Law: The Trials of Global Norms*, 16 FOREIGN POLY. 65, 65-66 (1998).

66. Harlan G. Cohen, *Multilateralism's Life Cycle*, 112 AM. J. INT'L L. 47, 50 (2018) (describing multilateralism as “a preference—a belief, that all things being equal, broader, more inclusive regimes would best solve the problems at hand, whether functionally or normatively”). See generally G. John Ikenberry, *Is American Multilateralism in Decline*, 1 PERSP. POL. 533 (2003). This, of course, never meant that unilateralism doesn't have a role to play. See also José E. Alvarez, *Multilateralism and Its Discontents*, 11 EUR. J. INT'L L. 393 (2000).

67. *Lake Lanoux Arbitration (Fr. v. Spain)*, 12 R.I.A.A. 281, 315 (Arb. Trib. 1957) (“in accordance with the rules of good faith, to take into consideration the different interests, to try to give them every satisfaction compatible with the pursuit of its own interests and to show that it

of self-determination and non-intervention⁶⁸—meant that states were to exhaust collaborative approaches before unilateral self-help measures were permitted.⁶⁹

In recent decades, international law has further sought to constrain unbridled state power. International law, with an egalitarian focus on consent, limited certain forms of state action while enabling powerful states to use that power to reach multilateral agreement and benefit from international legal regulation. The rise of human rights, which imposed greater responsibilities on states, further reinforced these basic understandings. A state could no longer hide behind concepts of sovereignty to shield itself from scrutiny by the international community regarding the treatment of its own citizens.⁷⁰ Intervention into other states and formal interference in another state’s policies was permitted only in the face of grave crimes (such as genocide, crimes against humanity, and war crimes).⁷¹

Over the last several decades—responding to the disaggregation of law and legal institutions and the proliferation of non-state actors⁷²—these foundational understandings of international law have been under attack. Driven by intractable global problems and the difficulties associated with obtaining international consensus, those advocating for an increased unilateral prerogative have gained influence.⁷³ In the U.S., the anti-

has a real desire to reconcile the interests of the other [Party.]”); Fisheries Jurisdiction (U.K. v. Ice.), Judgment, 1974 I.C.J. 3, ¶¶ 74–75 (July 25) (describing the duty to consult). *See also* Pulp Mills on the River Uruguay (Arg. v Uru.), Judgment, 2010 I.C.J. Rep. 14 [77]; Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v Nicar.) and Construction of a Road in Costa Rica along the San Juan River (Nicar. v Costa Rica), Judgment, 2015 I.C.J. Rep. 665 (Dec. 16).

68. U.N. Charter art. 43, ¶ 1 (referring to self-determination as one of the purposes of the UN); International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, art. 1 (setting out the right to self-determination); International Covenant on Economic, Social and Cultural Rights, art. 1, Dec. 16, 1966, 993 U.N.T.S. 3.

69. *See, e.g.,* Corfu Channel, (U.K. v. Alb.), 1949 I.C.J. Rep. 4 (Apr. 9) Albania, Judgment (condemning self-help approaches). *See* Evan J. Criddle & Evan Fox-Decent, *Mandatory Multilateralism*, 113 AM. J. INT’L L. 272 (2019), for a discussion of why international law often mandates multilateral approaches.

70. TIMOTHY WATERS, *BOXING PANDORA: RETHINKING BORDERS, STATES, AND SECESSION IN A DEMOCRATIC WORLD 2* (Yale Univ. Press 2020) (“The rise of human rights has eroded the notion that what happens inside the state is no one else’s business . . .”).

71. Donald Francis Donovan & Anthea Roberts, *The Emerging Recognition of Universal Civil Jurisdiction*, 100 AM. J. INT’L L. 142, 143 (2006).

72. *See* ANNE MARIE SLAUGHTER, *A NEW WORLD ORDER* 32 (2004).

73. Jutta Brunnée, *Multilateralism in Crisis*, AM. SOC. INT’L LAW PROC. 335, 337-38 (Proceedings of the 112th Annual Meeting (2018)) (describing international law and the crossroads and a current crisis and arguing that the U.S. “has turned *against* multilateralism”); *cf.*, David

internationalism often present in Congress has made multilateral agreements hard to come by, while go-it-alone and interventionist approaches have dominated.

One of the more problematic, and misunderstood, symptoms of this trend has been the dramatic rise of extraterritorial, unilateral regulation of foreigners.⁷⁴ Rather than simply filling regulatory gaps, complementing international agreement, or serving as a step towards harmonization, unilateral extraterritorial regulation has increasingly served as a competing, hegemonic alternative to international law and its mechanisms.⁷⁵ While at one point primarily a U.S. strategy, the attempt to govern globally through domestic measures—untethered to international agreement—has been embraced broadly.⁷⁶ Since unilateral, extraterritorial regulation has increasingly reflected an unwillingness to engage multilaterally, this trend has also furthered isolationist tendencies. The result led to the question: why bother working with the United States if it can simply ignore the rules and act on its own through domestic processes?

Bob's work has long explored these pulls by the international legal system as well as the promises and limitations of international law and its institutions. In the early 1990s, Bob wrote about the International Court of Justice, lamenting the court's neglect by major powers and described ways to reinvigorate commitment to the Court and international institutions in an evolving world order.⁷⁷ Indeed, much of Bob's scholarship has sought to push back on anti-internationalism and anti-global perspectives in the U.S.⁷⁸ In his other writings, he has advanced practical solutions for

Kaye, *Stealth Multilateralism: United States Foreign Policy Without Treaties—Or the Senate*, FOREIGN AFFS. 92 (Sept./Oct. 2013) (describing methods of bypassing multilateral agreement).

74. See Austen L. Parrish, *Fading Extraterritoriality and Isolationism? Developments in the United States*, 24 IND. J. GLOBAL LEGAL STUD. 207, 209 (2017), for a more in-depth treatment (arguing that a move away from extraterritorial unilateral regulation would “embrace a vision for global governance and a role for domestic courts in that system that is more consistent with foundational principles of international law”).

75. See also Nico Krisch, *International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order*, 16 EUR. J. INT'L L. 369, 403 (2005). See also Jean L. Cohen, *Whose Sovereignty? Empire versus International Law*, 18 ETHICS & INT'L AFFS., 1,3 (2004).

76. See ANU BRADFORD, *THE BRUSSELS EFFECT: HOW THE EUROPEAN UNION RULES THE WORLD* 21 (2020).

77. Robert E. Lutz, *The World Court in a Changing World: An Agenda for Expanding the Court's Role from a U.S. Perspective*, 27 STAN. J. INT'L L. 265, 267-68 (1991). See also Robert E. Lutz, *Perspectives on the World Court, the United States, and International Dispute Resolution in a Changing World*, 25 INT'L LAW. 675 (1991).

78. See, e.g., Robert E. Lutz, *Current Developments in the North American Free Trade Agreement: A Guide for Future Economic Integration Efforts*, 18 WHITTIER L. REV. 313, 315 (1997) (describing NAFTA and exploring issues of protectionism).

international collaboration on some of the world's most pressing global and transboundary challenges. At the same time, he recognized a space for unilateral enforcement and other activities, so long as they were connected to broader international discourse and collaboration.⁷⁹ In many ways, the central themes of Bob's work remain relevant to the enduring challenges that still beleaguer us, as skepticism about the effectiveness of international norms and institutions continue.⁸⁰

CONCLUSION

Great law schools are built by great faculty. Bob's legacy, contributions, and scholarly writings over the course of four decades place him among this faculty who have shaped Southwestern Law School into what it is today. His many contributions to our understanding of international law, transnational lawyering, and the global legal profession should be celebrated, along with his lasting impact on Southwestern Law School's long-standing commitment to preparing students for an increasingly complex and global practice. As Bob takes emeritus status, it is only appropriate that the Southwestern Journal of International Law honors his many contributions through this richly deserved symposium.

79. See, e.g., Robert E. Lutz, *An Essay Harmonizing National Environmental Laws and Policies*, 1 ENVTL POL'Y & L. 132 (1975) (urging greater collaboration and harmonization of national strategies); Robert E. Lutz, *The Export of Danger: A View from the Developed World*, 20 N.Y.U. J. INT'L L. & POL. 629, 671-72 (1988) (urging multilateral and international approaches in addition to unilateral ones to address hazardous waste, technologies, and substances); Robert E. Lutz, *On Combating the Culture of Corruption*, 10 SW. J. L. & TRADE AM. 263, 267-68 (2004) (arguing that combating corruption requires strong unilateral action combined with multilateral efforts and understandings and cautioning against "bullying, self-righteous, self-interested and coercive" approaches).

80. Criddle & Fox-Decent, *supra* note 69, at 273 (describing how "many states are reassessing the strategic value of multilateral cooperation and recalibrating their international commitments across a wide variety of contexts").